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# MILITIA LAW

OF THE

# STATE OF ARKANSAS,

PUBLISHED BY DIRECTION

OF THE

# Commander-in-Chief of the Army

OF THE

# STATE OF ARKANSAS,

AND OF

# THE MILITIA THEREOF.

LITTLE ROCK:
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1860.

# EXTRACT

FROM

# THE CONSTITUTION

OF THE

# STATE OF ARKANSAS,

RELATING TO THE

# MILITIA.

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SECTION 1. The militia of this State shall be divided into convenient divisions, brigades, regiments and companies, and officers of corresponding titles and rank elected to command them, conforming, as nearly as practicable, to the general regulations of the army of the United States.

SEC. 2. Major generals shall be elected by the brigadier generals and field officers of their respective divisions; brigadier generals shall be elected by the field officers and commissioned company officers of their respective brigades; field officers shall be elected by the officers and privates of their respective regiments; and captains and subaltern officers shall be elected by those subject to military duty in their respective companies.

SEC. 3. The governor shall appoint the adjutant general and other members of his staff, and major generals, brigadier generals, and commanders of regiments, shall respectively appoint their own staff: And all commissioned officers may continue in office during good behavior; and staff officers during the same time, subject to be removed by the superior officer from whom they respectively derive their commissions.

# MILITIA LAW

OF THE

# STATE OF ARKANSAS;

PUBLISHED BY DIRECTION OF THE COMMANDER-IN-CHIEF OF THE ARMY OF THE STATE OF ARKANSAS, AND OF THE MILITIA THEREOF.

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## WHO LIABLE TO, AND WHO EXEMPT FROM, DUTY.

SEC. 1. Every able-bodied free white male inhabitant, between the ages of eighteen and forty-five years, shall constitute the militia of this State. But no person shall be called upon to perform militia duty who has not resided within this State two months, and within the bounds of the company to which he may belong, ten days, except in cases of actual or threatened danger of insurrection or invasion, in which case they shall be required to do and perform the same duty as other citizens, the neglect of which shall subject them to the same fines and penalties. *Act of Feb.* 3, 1843, *sec.* 1.

SEC. 2. Judges of the supreme and circuit courts, secretary, auditor and treasurer of the State, clerks of the supreme and circuit courts, postmasters, post-riders, ferrymen on public roads, all licensed preachers of the gospel, of every denomination, and justices of the peace, shall be exempt from performing military duty, except in cases of insurrection and invasion. (*a*) *Ib. sec.* 1.

MILITIA, HOW DIVIDED.

SEC. 3. The militia of this State shall be divided and designated as follows, viz:

The militia of the counties of Sevier, Hempstead, Lafayette, Pike, Clark, Ouachita, Hot Spring and Montgomery, shall compose the first brigade.

The militia of the counties of Pope, Yell, Conway, Perry, White, Pulaski and Saline, shall compose the second brigade.

The militia of the counties of Crawford, Franklin, Scott and Johnson, shall compose the third brigade.

The militia of the counties of Washington, Benton, Madison and Carroll, shall compose the fourth brigade; which brigades shall compose the first division.

The militia of the counties of Mississippi, Crittenden, Poinsett, St. Francis, Phillips and Monroe, shall compose the fifth brigade.

The militia of the counties of Jefferson, Bradley, Union, Chicot, Desha and Arkansas, shall compose the sixth brigade.

The militia of the counties of Van Buren, Izard, Fulton, Marion, Searcy and Newton, shall compose the seventh brigade.

The militia of the counties of Randolph, Greene, Lawrence, Independence and Jackson, shall compose the eighth brigade; which brigades shall compose the second division. (*b*) *Ib. sec.* 2.

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(*a*) Keepers of public grist mills, who have their names recorded as such, are exempt. See MILLS AND MILLERS. Patrols are exempt. See PATROLS.

(*b*) Since the passage of this act, the counties of Ashley, Calhoun, Columbia, Craighead, Dallas, Drew, Polk, Prairie and Sebastian, have been established; and belong, of course, to the brigades, respectively, which included the territory out of which they were formed, until otherwise classed.

SEC. 4. The militia of each county, when the number of persons therein subject to military duty shall be sufficient to constitute two battalions, shall constitute one regiment; but when the number of militia-men in any county shall not be sufficient to constitute two battalions, the militia of such county shall constitute a separate battalion, or be formed into independent companies, as may be found most convenient; the regiments and battalions shall be numbered by the commander-in-chief, and arranged in numerical order. *Rev. Stat., chap.* 97, *sec.* 4. *Act of Oct.* 29, 1836, *sec.* 3.

SEC. 5. The commanding officer of each regiment within this State, shall have power to lay off and establish new companies, from time to time, within their commands, as they may think best for the convenience of the militia-men therein; *Provided, however,* No regiment shall consist of more than eight, nor less than four companies. *Act of Feb.* 3, 1843, *sec.* 33.

SEC. 6. Any brigadier general of this State shall have power to divide any regiment in his brigade, whenever the same shall consist of more than eight companies; and any major general shall have power to divide any brigade within his division, whenever the same shall consist of more than eight regiments; and the governor shall also have power to divide any division, whenever the same shall consist of more than eight brigades. *Ib. sec.* 34.

SEC. 7. No company shall consist of less than thirty-two, nor more than one hundred, non-commissioned officers and privates; nor shall any battalion consist of less than two, nor more than four companies. *Ib. sec.* 35.

## HOW COMMANDED, AND RANK OF OFFICERS.

SEC. 8. The governor shall be commander-in-chief of the militia of this State, for the time being, and shall have and exercise such power and authority as may be necessary to call into actual service the militia of the State, or such number thereof as may be called for by the proper authorities of the United States, making an equal requisition on each division, or to order out all, or such part as may be necessary to protect

the State against insurrection or invasion, in such manner as the exigency may require. *Act of Feb.* 3, 1843, *sec.* 3.

SEC. 9. Each division shall be commanded by one major general, each brigade by one brigadier general, each regiment by one colonel commandant, the first battalion of each regiment by one lieutenant colonel, and the second battalion by one major; and each company by one captain, one first and one second lieutenant, three sergeants and four corporals. *Ib. sec.* 3.

SEC. 10. The staff of the governor shall consist of all such officers as compose the staff of the officer of the same grade in the army of the United States, and shall bear the same rank; and when called into actual service, either by the authority of this State, or the United States, shall be entitled to the same pay and emoluments. (c) *Act of Dec.* 18, 1840.

SEC. 11. The governor shall appoint an adjutant general, whose duty it shall be to do and perform all the duties that may be required of him by law, and to furnish all forms and blanks for returns, that may be necessary, and to keep a book, in which he shall make a fair entry of all returns by him received, which shall be subject at all times to the inspection of the major generals and the executive of the State; and he shall receive for his services such compensation as may from time to time be allowed him by law: the governor shall also appoint a quarter master general. *Act of Feb.* 3, 1843, *sec.* 3.

SEC. 12. Major and brigadier generals shall appoint such aids, and other staff officers, as major and brigadier generals are entitled to in the United States army. Each colonel commandant shall appoint one adjutant, one sergeant major, one quartermaster, one quartermaster sergeant, one surgeon, one drum and fife major; which musicians shall be allowed one dollar for each day they may be engaged in performing their duties, at any regimental, battalion, or drill parade; and one judge advocate; and captains shall appoint for their respective companies a drummer and fifer. *Ib.*

SEC. 13. The staff officers of the major general shall rank as

(c) See CONST. ARK., page 3 of this pamphlet.

lieutenant colonels of cavalry; the staff officers of brigadier generals shall rank as majors of cavalry; the staff officers of colonels shall rank as captains of infantry; and said officers, when called into actual service, either by the authority of this State or the United States, shall be entitled to the same pay and emoluments as officers of the like grade, belonging to the United States army. *Ib. sec.* 4.

SEC. 14. All commissioned officers shall rank according to their grades and the date of their commissions. The rank of general field officers, who may be elected or appointed under any of the provisions of this act, on the same day, being of the same grade, shall be determined by lot, to be drawn by the adjutant general, in presence of the governor and secretary, which duty he is required to perform as soon as practicable, and transmit as quick as practicable, to each officer, the result thereof; and it is also his duty to make an entry in a book, to be kept by him for that purpose, of the grade and rank of each officer so determined. *Ib. sec.* 6.

SEC. 15. The rank of all captains and subaltern officers heretofore or hereafter elected on the same day, of the same grade, belonging to the same regiment, shall be determined by lot, drawn in the presence of the colonel commandant, and the adjutant shall make a record of the grade and rank of each officer so determined. *Ib. sec.* 7.

## ELECTIONS: OATH AND TERM OF OFFICE.

SEC. 16. In all elections for major generals, the same shall be held at the court-house in each county in the division, and for this purpose the governor shall issue his order of election, giving at least sixty days' notice, and requiring the sheriffs of each county in the division, to appoint two competent persons as judges of such election in his county, and two clerks of said election; said clerks, before entering upon their duties, shall be sworn faithfully to record the names of each voter, and his grade of office, and carry out in lines and columns the number of the vote; (*d*) and after the votes are all given, the said

(*d*) All elections are to be by ballot. See title ELECTIONS, chapter 62. As to who is entitled to vote in militia elections, see Constitution of Arkansas, title MILITIA, page 3 of this pamphlet.

judges shall certify the poll-book, attested by the clerk, to the secretary of state. And it shall be the duty of the secretary of state, within twenty days after the election, to open said poll-books, in the presence of the governor, and to count the votes given for each individual, and the governor shall declare who is elected, and issue his commission to the person getting the greatest number of votes; and in case there should be a tie, the governor shall give the casting vote. *Ib. sec.* 10.

Sec. 17. To fill all vacancies in the offices of brigadier generals, it shall be the duty of the major general of the division in which such vacancy may be, to issue his order, giving at least thirty days' notice of the time of said election; and said election shall be governed, in all respects, as elections for major general, except that the judges of each election shall certify the poll-books to the major general, who issued the order of election, and within twenty days after the said election, the major general shall open the poll-books, and determine who is elected; and shall certify the same to the governor, who shall issue a commission thereon. And in all cases where there is a tie vote for brigadier general, the major general shall give the casting vote.

Sec. 18. To fill all vacancies in the office of colonel, the brigadier-general of the brigade in which the vacancy may be, shall issue his order to the sheriff of the county where such vacancy may be, commanding him to advertise in each township in said regiment, giving at least ten days' notice, that an election will be held at the usual place of holding elections in each township in said regiment, for colonel commandant of said regiment—such elections to be conducted, in all respects, as general elections are. The clerk of the circuit court shall open the poll-books in the manner now prescribed by law in general elections, and ascertain who is elected, and shall certify the result to the brigadier general; and if there should be a tie vote, the brigadier general shall have the casting vote; and he shall, in all cases, certify to the governor who is elected, and the governor shall issue a commission thereon. *Ib. sec.* 11.

Sec. 19. To fill all vacancies of commissioned officers in a regiment, below colonel commandant, it shall be the duty of

the colonel to give at least ten days' notice of the time and place of holding such election. The judges shall certify the poll-books to the colonel commandant, who shall, within five days after said election, open said poll-books, and determine who is elected; and if there should be a tie vote, he shall give the casting vote, and shall certify to the governor who was elected, and the governor shall issue commissions thereon. *Ib. sec.* 12.

Sec. 20. It shall be the duty of the colonels, at all times, to keep the different vacancies of all officers in their regiments filled. And in all cases of tie votes, the colonel shall have the casting vote, or to order a new election, at his option. He shall also give a certificate of election to all persons who may hereafter be elected to the office of lieutenant colonel, major, captain, first and second lieutenant, which certificate shall be sufficient authority for such officer to enter upon the duties of his office, by his taking the necessary oath, until he shall be commissioned by the governor. *Ib. sec.* 9.

Sec. 21. All elections held under this act, which may hereafter be contested, shall be determined in the following manner, viz: If the election of major general shall be contested, the party contesting the same shall furnish the governor with a written statement, under oath, of his reasons, upon the receipt of which, he shall order a general court martial to be held, at such place and time as he may designate, in the division to which such major general belongs; at which court each military officer of such division, not under the grade of a field officer, shall be entitled to a seat. And if the election of a brigadier general shall at any time be contested, the person contesting the same shall make like complaint to the major general of the division to which such brigadier belongs, who, upon the receipt thereof, is required to order a brigade court martial, as in other cases. And when the election of a colonel of a regiment or commandant of a battalion shall be contested, complaint in like manner shall be made to the brigadier general, who, upon the receipt thereof, shall order a regimental court martial. And if the election of any officer under the rank of a colonel commandant shall be contested, the person

contesting the same shall make application to the colonel of the regiment where such contest exists. And in order to explain and fix a principle to govern the several courts martial in their duty respecting contested elections, it is hereby declared that the party contesting shall, in all cases, be bound to furnish satisfactory proof to the court, that the person whose election is contested did receive a number of illegal votes, which, if deducted, would give a majority to the party contesting; and if the party contesting should fail to substantiate the charge, or if the charge shall be substantiated, in either case the court shall report in favor of the person who received the highest number of legal votes, as being duly elected; and the president of each court martial shall certify the name or names of the person or persons thus duly elected, which certificate, if the officer shall be of the grade of a field officer, shall be sent to the governor, and if a commissioned officer of a company, the certificate shall be signed as aforesaid, and sent to the colonel of the regiment, and by him to the governor, who shall issue a commission thereon; and if, on examination by any court martial of a contested election, it shall appear that said election was illegal, such court shall certify the same to the proper officer, who shall forthwith order a new election to take place, as is required by this act. All general or brigade court martials, ordered under the provisions of this act, shall consist of at least seven members, who shall be of the grade of field officers, and the highest officer in command, or senior officer present, shall preside in said court. *Ib. sec.* 14.

Sec. 22. All officers elected under the provisions of this act, shall take an oath, which shall be indorsed upon the back of their commissions or certificates of election, that they will support the constitution of the United States and of the State of Arkansas, demeaning themselves in office, and discharge the duties thereof to the best of their skill and ability, which shall be certified by the officer administering the same. *Ib. sec.* 46.

Sec. 23. If any person shall vote at any election held under the provisions of this act, not being a qualified voter, he shall, upon conviction thereof, before any justice of the peace within the regiment, forfeit and pay the sum of ten dollars, to be

recovered on complaint being made to such justice, in writing, supported by the affidavit of any respectable citizen, one-half to be paid to the informant, and the other to the judge advocate of the regiment, to be disposed of as other fines. (e) *Ib. sec.* 40.

SEC. 24. All commissioned officers, elected under the provisions of this act, shall hold the same during good behavior, and shall not resign unless permitted so to do by their superior officer, in less than three years from the date of their commission; and non-commissioned and staff officers and musicians shall hold their offices during the pleasure of their superior officers; *Provided, however*, They shall not be compelled to serve for a longer period than twelve months, and if any non-commissioned or staff officer, appointed under the provisions of this act, shall refuse to serve, he shall be fined in the sum of ten dollars, to be imposed, collected and disposed of as other fines are directed by this act, who, on paymont of such fine, shall be exempt from performing the duties of such office for the term of two years. *Ib. sec.* 41.

SEC. 25. If any commissioned officer of the militia of this State shall remove out of the bounds of his proper division, brigade, regiment, battalion, or company, or offer himself a candidate for any other military appointment, or shall absent himself therefrom more than twelve months at any one time, except upon the duties of his office, the same shall be declared vacant, which vacancy shall be immediately filed, according to the provisions of this act. *Ib. sec.* 45.

## DRILLS AND REVIEWS.

SEC. 26. All militia officers elected or appointed under the provisions of this act, shall provide themselves with the proper uniform within six months after their election; which uniform shall be the same as is required to be used by officers of like grade in the United States army, except commandants of regiments, and their inferior officers, who are hereby authorized to agree upon such uniform as they may think proper. The pro-

(e) See Constitution of Arkansas, title MILITIA, as to who may vote.

visions of this act shall not be so construed as to require any officer to wear his uniform when sitting on a court martial. *Ib. sec.* 36.

SEC. 27. There shall be a regimental muster in each regiment once in every year, which musters shall be held as follows: in the regiment first in number in each brigade, on the first Saturday in October; in the second, on the Thursday following; in the third in number, on the second Saturday; and the fourth, the Thursday following; and so on throughout the brigade. *Ib. sec.* 17.

SEC. 28. There shall be a battalion muster in each battalion in this State, in the month of April, annually; the first battalion in each regiment, on the first Saturday, and the second battalion on the second Saturday. *Ib. sec.* 18.

SEC. 29. The captains of the several companies within this State shall have a company muster, at least once in every six months, at such time and place as the company think best for their convenience; *Provided, however*, That they shall always have one muster on the Saturday preceding the regimental and battalion musters, in their respective regiments and battalions. *Act of Jan.* 9, 1845, *sec.* 11.

SEC. 30. Every officer, non-commissioned officer, musician and private, shall appear at his respective muster ground, whether regimental, battallion or company, on the day appointed, by 10 o'clock in the forenoon, the officers in uniform, armed and equipped, and the privates armed as directed by this act; (*f*) and it shall be the duty of commandants of regiments, battalions, and companies, to have noted all absentees, and to exercise their respective commands, at least three hours in each day; *Provided, however*, They may give such intervals as they may think proper, during the exercise; if the commanding officer fails to attend any parades which this act makes it his duty to attend, the officer present next in command shall act, and discharge all the duties required of his superior officer, during his absence or inability. *Act of Feb.* 3, 1843, *sec.* 21.

(*f*) As to the uniform of officers, see sec. 26. This act does not specially prescribe how officers and privates shall be armed and equipped, but the omission is supplied by sec. 55.

SEC. 31. The commissioned and staff officers of each regiment shall meet at the place of holding regimental musters, in uniform, armed with a good rifle or smooth-bore, for the purpose of being trained and instructed in military tactics, by the adjutant of the regiment, on the two days next preceding the regimental muster in each year. The adjutant, at such drills, shall call the roll, note all absentees, and take notice of such officers as are not armed as required by this act; and in case of the absence of the adjutant, the officers present shall perform the duties required of him, by turns, as may be agreed upon by themselves. *Ib. sec.* 22.

SEC. 32. The adjutant, for his services for attending the regimental drills, or on any court martial, and performing the duties required of him by this act, shall receive one dollar and fifty cents for each day he may be so engaged, out of any money in the hands of the judge advocate, not otherwise appropriated. *Ib. sec.* 23.

SEC. 33. It shall be the duty of the brigadier generals of the several brigades within this State, with the staff officers, in full uniform, to review the several regiments within their respective commands, at least once in every two years; which review shall be at the regimental muster in October; and it shall be their duty to give the commandants of regiments at least thirty days' previous notice of said review, and at what muster the same will take place. *Ib. sec.* 20.

## COURTS MARTIAL.

SEC. 34. When any major general, brigadier general, or brigade major, shall be charged with mal-administration or neglect of duty in office, if a major general, it shall be lawful for any militia officer not under the grade of a field officer, to exhibit to the governor a fair statement of the charge or charges, and the facts intended to establish the same, who is hereby authorized to order a general court martial, to consist of at least nine members, none to be under the grade of a field officer, who, when convened, shall take the same oath prescribed for regimental courts martial. The said court, thus

sworn, shall have power to inquire into the nature of the offence, and if it shall constitute a misdemeanor in office, he shall be cashiered; if neglect of duty, he shall forfeit and pay any sum not less than ten, nor more than one hundred dollars, to be collected as in similar cases of fines. If a brigadier general or brigade major shall be charged of either of the aforesaid offences, such charge shall be exhibited to the major general, whose duty it shall be to issue his order to the senior colonel commandant in the brigade in which the officer charged may reside, by virtue of which order said colonel shall hold a court martial, and proceed in the same manner as is directed for the trial of a major general; *Provided*, That in all cases of charges exhibited against officers, the officer ordering a court martial shall, as soon as practicable, furnish the person charged with a copy of the charges exhibited against him, at least ten days prior to the time appointed for trial, and cause such witnesses as may be required by either party, to be summoned by the adjutant of the regiment in which they reside; and every person, so summoned, and failing to attend, or refusing to answer any legal question, he shall be liable to be tried by the court martial, and, if he be an officer, he may be cashiered or fined at the discretion of the court, not exceeding fifty dollars, if a non-commissioned officer or private, he may be fined not exceeding twenty dollars, and kept under guard till he will give evidence. *Ib. sec.* 26.

Sec. 35. There shall be a regimental court martial in each regiment in this State annually, at the place of holding regimental musters, on the second Thursday in November, and succeeding days if necessary; such court shall consist of at least seven members; and the officer highest in grade, or the senior officer present, shall be president of such court, which court shall have power to examine all persons brought before them, and exempt such as may be adjudged incapable of performing military duty, during their inability, and to inquire into all neglects or omissions of duty of all officers, musicians and privates, belonging to the regiment, and assess fines, as follows, for said neglect or omission of duty, viz: upon any colonel, lieutenant colonel, major, not less than five, nor more than twenty

dollars; upon any regimental staff officer or commissioned company officer, not less than three, nor more than ten dollars; upon any non-commissioned officer, musician or private, not less than fifty cents, nor more than three dollars. And if any officer, musician or private, or by-stander, shall be guilty of any contemptuous or disorderly conduct during the time of any parade or sitting of any court authorized by this act, he shall be fined at the discretion of the court, in any sum not less than three, nor more than ten dollars. *Ib. sec.* 27.

Sec. 36. There shall be a battalion court martial in the first battalion of each regiment in this State, on the first Monday in June, and in the second battalion on the second Monday in June, annually, to consist of at least five members. The highest in grade, or the senior officer present, shall be the president; such court shall have power to hear and determine all appeals from any company court martial, and assess such fines for the neglect or omission of duty of any company officer musician, or private, as they may deem proper; if an officer, not exceeding ten dollars, if a private, not exceeding five dollars, reserving the right of any person to take an appeal to the regimental court martial, who may think himself aggrieved by the decision. *Ib. sec.* 28.

Sec. 37. The commissioned officers of each company shall have power to hold company courts martial, the highest officer in command, or senior officer present, shall preside and administer all necessary oaths; such courts shall be held at each company muster for the one preceding; the orderly sergeant shall act as secretary for the court, and keep a true and perfect record of all proceedings had by such courts martial; said courts shall have power to assess fines in the following cases, viz: without a reasonable excuse for the non-attendance of any non-commissioned officer, musician or private, at any company muster, armed as required by this act, in any sum not less than fifty cents, nor more than three dollars; for disorderly or contemptuous conduct of the court, or on parade, in any sum not less than one, nor more than five dollars; *Provided, however,* That any person who may think himself aggrieved by the sentence

of said court, may appeal to the next regimental or battalion court martial, as the case may be. *Ib. sec.* 29.

SEC. 38. In all cases of appeal from any court martial, the party wishing the appeal shall apply to the presiding officer of such court, within ten days after the rising thereof, who, after hearing the complaint or reasons of the party for such appeal, shall, if he think them sufficient, cause a transcript of all the proceedings had in such case or cases, to be made out by the judge advocate, or secretary of the court, and laid before the court to which the appeal is taken, at the next term thereof, which court shall hear and determine such case or cases on their minutes, and confirm or reverse the decision of the court below, as they may think just and proper. And it shall be the duty of captains commanding companies, to notify, or cause the same to be done, such of their officers, musicians, or privates, as may have been fined by any company, battalion or regimental courts martial, within five days after the rising of such court. *Ib. sec.* 30.

SEC. 39. It shall be the duty of the orderly sergeant to make out a true copy or transcript of all fines assessed at each company court martial, and deliver the same to the judge advocate of the regiment, within ten days after the same are assessed, who shall proceed thereon in the same manner as if it had been imposed by a regimental or battalion court martial. *Ib. sec.* 31.

SEC. 40. It shall be the duty of the judge advocate of the regiment to give bond, with good and sufficient security, payable to the colonel of the regiment and his successors in office, in the penal sum of five hundred dollars, to be approved of by the colonel, and conditioned to be void upon the faithful discharge of the duties of his office, and accounting for all moneys that may come into his hands as judge advocate. (*g*) *Ib. sec.* 38.

SEC. 41. In all cases of failure of any judge advocate to attend a court martial, such vacancy shall be filled, for the

(*g*) The judge advocate of the regiment is appointed by the colonel. See section 12.

time being, by appointment made by the members present of such court. *Ib.*

Sec. 42. Each judge advocate, previous to entering on the duties of his office, shall take an oath, faithfully and impartially to perform the duties of his office, according to law, to the best of his skill and ability; and the judge advocate, then sworn, shall administer the following oaths to the officers, previous to their entering on the duties of any court martial, viz: You and each of you do solemnly swear, that you will well and truly inquire into all delinquencies which may appear on the returns laid before you, and will assess such fine thereon as shall seem just, according to law, without favor, affection, partiality or prejudice, and that you will not disclose or discover the vote or opinion of any particular member of this court, unless required to give evidence thereof in a court of justice: so help you God. *Ib.*

Sec. 43. It shall be the duty of the judge advocate to procure a well bound book, out of any money that may come to his hands, by virtue of his office, not otherwise appropriated, in which he shall keep a true record of all business done in the regimental and battalion courts martial in his regiment, and make all other entries and records that may be necessary; and in all cases where fines are assessed by any court martial, against any officer, musician, or private, by any regimental, battalion, or company court martial, and the same is not paid into his hands, or the decision appealed from, within twenty days from the rising of said court, he shall issue an execution, directed to the constable of the the township where such person or persons may reside, and the constable shall proceed to collect the fine, without delay, in the same manner that he would on an execution issued from under the hand of a justice of the peace, and he shall be entitled to the same fees that he would for similar services in civil cases. All constables, to whom any execution may be directed, under the provisions of this act, shall make a true return, and pay over all money by him collected thereon, to the judge advocate, the neglect of which shall subject him to the same penalties, as in civil cases. *Ib. sec.* 24.

SEC. 44. The judge advocate shall retain all money that may come to his hands by virtue of his office; which money shall be at all times subject only to the order of a regimental court martial, for the purpose of paying for colors, drums, fifes, adjutant and judge advocate fees, books, stationery, and such other contingent expenses as may be necessary. And the judge advocate for his services shall receive one dollar per day for each day he may be engaged in attending on any court martial, and ten per cent. on all moneys by him received and disbursed. *Ib. sec.* 25.

SEC. 45. All executions issued by the judge advocate, for the collection of fines imposed by any regimental or battalion court martial, shall be in the following form, to-wit:

*The State of Arkansas to the Constable of* ——— *Township*—

GREETING:

You are hereby commanded, that of the goods and chattels of ——— you cause to be made the sum of ——— dollars and ——— cents, which sum the said ——— was fined at and by a (regimental, battalion, or company court martial, as the case may be,) on the ——— day of ———, in the year ———, which sum you are to pay over without delay, or make eturn as the law directs.

Given under my hand and seal, this ——— day of ——— in the year 18——.

A. B., *Judge Advocate*
*of the* ——— *Regiment Arkansas Militia. Ib. sec.* 39.

SEC. 46. All parents shall be liable to pay the fines imposed upon their sons, guardians for their wards, and masters and mistresses for their apprentices, under the age of twenty-one years, and shall be respectively charged therewith by the court imposing the same. *Ib. sec.* 42.

SEC. 47. In all cases where any person, who shall be fined under the provisions of this act, shall remove into any other company in this State, without having paid said fine or forfeiture, it shall be the duty of the judge advocate of the regiment from which said person may have removed, upon information thereof, to forward an execution to the constable of the township where the delinquent may have removed, and said

constable, on the receipt thereof, shall forthwith proceed to collect the same, and make return as the law directs, to the judge advocate who issued the execution. *Ib. sec.* 43.

## REPORTS.

SEC. 48. It shall be the duty of each captain or commanding officer of companies, to make out a true report of the strength and condition of his company, showing the number of officers, musicians, privates, drums, fifes, swords, guns, colors, etc., on or before the battalion muster in each year, and deliver the same to the adjutant of the regiment, and the adjutant shall, from the company returns, make out a return of the strength and condition of the regiment, a copy of which he shall deliver to the colonel of the regiment, who shall forward a copy thereof to the brigadier general, on or before the 15th of May, in each year, and retain the original for the use of the regiment. The brigadier generals shall make, or cause to be made out, from the regimental returns, a report of the strength and condition of their respective brigades, a copy of which they shall forward to the major general of the division to which they are attached, on or before the first of July in each year, and retain one for the use of their respective brigades. The major generals shall make, or cause to be made, from the brigade returns, a report of the strength and condition of their respective divisions, a copy of which they shall forward to the adjutant general of the State, on or before the first day of August in each year. The adjutant general shall make out, from the division returns, a report of the strength and condition of the militia of the State, and furnish the executive of the State with a copy thereof, and forward one to the secretary at war of the United States. (*h*) *Ib. sec.* 32.

## INVASION OR INSURRECTION.

SEC. 49. In case of any sudden invasion or insurrection, in any county in this State, the commanding officer of the militia

(*h*) By act of Congress of 1808, provision is made for arming the militia of the several states and territories.

of said county shall have power, and he is hereby authorized, to order out all, or such part thereof as he may think necessary to repel such invasion or insurrection, and, if the exigency of the case may require it, he is hereby authorized to make a requisition on any adjoining county, not so invaded; and it shall be the duty of the commanding officer of such county to promptly obey such requisition; *Provided, always*, That it shall be the duty of such officer, so ordering out the militia, to transmit to the governor, as early as practicable, a statement of his proceedings, setting forth his reasons for exercising such authority; and no such invasion or insurrection shall be taken to be premeditated, unless it is so stated by one or more creditable and respectable persons, upon oath; and in all cases, where any part of the militia is called into service, by virtue of such authority, the commanding officer shall, in transmitting his reasons to the governor, enclose a copy of the depositions so taken; and the militia, so ordered out, shall be discharged within thirty days from and after their rendezvous, except they shall be continued in service for a longer term by the executive authority of the State; and the militia of this State, when in actual service, shall be governed by the rules and articles governing the army of the United States. *Ib. sec.* 44.

Sec. 50. At any time when the militia of the State shall be called out to suppress insurrections, when the same shall not be organized, the sheriff of the county, when such militia is called out, shall order an election of officers of such regiments, battalions or companies, immediately upon the assembling of said regiments, battallions or companies.

Sec. 51. Said sheriff shall appoint two competent persons as judges of such election, and two clerks of said election, who shall be qualified as the law directs, and who shall conduct the election as now provided for by law. The returns of said election shall be made to the sheriff ordering the same, who shall transmit to the governor certificates of such election, and he shall also furnish each officer, so elected, with a certificate of his election, who shall be authorized to proceed and act under said certificate as a commissioned officer, until his commission shall be transmitted to him from the governor.

SEC. 52. All officers elected under the provisions of the foregoing sections, after they shall have received the certificate of election from the sheriff authorized to grant the same, shall be obeyed and respected as though they were commissioned by the governor. *Act of Jan.* 6, 1853.

## GENERAL PROVISIONS.

SEC. 53. Any person called upon to perform a tour of duty in the militia service of this State, shall be excused from so doing, provided he furnish an able-bodied substitute in his stead, who is not liable himself to perform duty therein. No substitute shall be received unless he be armed and equipped as in this act provided. *Act of Feb.* 3, 1843, *sec.* 48.

SEC. 54. All persons subject to militia duty shall be privileged from arrest during the time they are engaged in going to, remaining at, or returning from, any muster, court-martial, or election ordered under the provisions of this act, except in criminal cases or breaches of the peace. They shall also have the privilege of passing over toll-bridge, turnpike road, or ferry, going to, or returning from, any muster, court martial, or election, required by this act, free from charge; and any keeper or owner of a toll-bridge, turnpike, or any ferryman on a public road, failing to ferry over, or refusing to let any such person pass, shall be fined in any sum not less than three, nor more than ten dollars, to be imposed by a regimental or battalion court martial, and collected as other fines are by this act; one half of such fine to go to the use of the regiment, or battalion, as the case may be, and the other to the person informing against such offender. *Ib. sec.* 37.

SEC. 55. In all things not provided for in this act, such provisions of law as have been or may be made by Congress, for the government of the army or militia of the United States in similar cases, shall be conformed to and observed by the officers and militia of the State; and all officers heretofore elected, shall remain in office, exercise the same authority, and be entitled to the same rank and emoluments, as they would have been entitled to if this act had not been passed, except in cases

where the offices are abolished by the provisions of this act. *Ib. sec.* 49.

SEC. 56. In all cases where the militia, in any of the military divisions of this State, shall fail to elect such officers as they are required by law, such division shall be attached to, and form a part of, the militia of some other division which shall have the requisite officers, and shall be subject to perform all military duty by this act required, under the command of the officers of the division to which they may be attached. If the delinquency or failure shall occur in a company division, the militia of such division shall be attached to the next adjoining company in the same battalion, if any company of the battalion to which such division belongs shall have the requisite officers, by an order of the lieutenant colonel or major of such battalion; and if there shall be found no company in the battalion organized and officered as required by this act, the militia of each company of such battalion shall be attached to the most convenient company of the regiment which shall be found to have the requisite officers, by an order of the colonel of such regiment; and if any regiment or separate battalion shall be found unorganized, and without the requisite officers, the militia of such regiment or separate battalion shall be attached to the most convenient regiment or separate battalion in the brigade which shall be found to have the officers and organization required by law, by an order of the brigadier general of the brigade to which such regiment or battalion may belong; if any brigade shall be found unorganized, and without the requisite officers to command the same, the militia of such brigade shall be attached to the most convenient brigade in the division to which such brigade shall belong, which shall be found to have the officers required by law, by an order of the major general of such division; and in all cases when the militia of any division shall be attached to any other division, as hereinbefore provided for, the militia so attached shall be commanded by the officers of the division to which they shall be attached, and shall be liable to the same duty, and subject to the same fines and penalties, as if they had previously belonged to such division; and the militia of any division attached

to another division, as aforesaid, shall remain subject to such command until they shall be admitted, by an order of their superior officer to whose command they may be attached, to elect the requisite officers to command such division, and shall have reported to him that they have all the requisite officers for the command of their separate division duly elected and commissioned; after which the command of the officers of the division to which they shall have been attached shall cease, and shall devolve on the officers of the division elected and commissioned as aforesaid; and if any division shall be found a second time unorganized, and without officers, as required by this act, they shall, in like manner, be again attached to some division having the requisite officers and organization, and shall be debarred the privilege of again separating from the division and command to which they shall be attached, and shall permanently compose a part of said command, anything in this act, or the law of the land, to the contrary notwithstanding; and the officer whose duty it is made by this act to order the militia of any of the divisions to be attached to some other division, as provided for by this act, shall, at the time of issuing any such order, give public notice thereof to the militia of the division to be attached as aforesaid; if it be a company, the notice shall be in writing, put up in at least two of the most public places in the company; if a battalion, the like notice shall be put up in at least one of the most public places in each company of the battalion; if a brigade, regiment, or separate battalion, the like notice shall be put up in at least one of the most public places of the brigade, regiment, or separate battalion, or be published, for three weeks successively, in one or more of the newspapers published in this State; and any notice, given as aforesaid, shall be deemed in law sufficient; and the militia, so notified, shall, from the time of issuing such order and giving such notice, be considered and treated as a part of the division to which they may be attached, and compose a part of the command of the officers of the division to which they are attached, anything in this act to the contrary notwithstanding; and any general order issued by the commander-in-chief, any major general, or brigadier general,

and published in any newspaper printed in this State, for three weeks successively, shall be deemed in law a sufficient notice thereof to the militia, and all persons to be affected thereby, and shall be, to all intents and purposes, as valid as if the same was communicated by express, or in other manner whatsoever. *Rev. Stat., chap.* 97, *sec.* 18. *Act of Oct.* 29, 1836, *sec.* 10.

VOLUNTEERS.

SEC. 57. There may be organized in each county in this State four volunteer companies; one of infantry, one of light infantry or riflemen, one of cavalry, and one of artillery, who shall elect their officers at the first election, at a time and place to be ordered by the colonel of the regiment, upon whose certificate of election commissions shall issue; and at all subsequent elections, at a time and place fixed by the company, and commissions to the officers elected, at such subsequent elections, shall issue on the certificate of the commanding officer of the company.

SEC. 58. The officers of every volunteer company in this State, shall hereafter be a captain, one first, one second, and one third lieutenant.

SEC. 59. Every volunteer corps now organized, or which may hereafter be raised in this State, shall hereafter be wholly independent of the militia of the county, except at battalion and regimental parades, when such company shall parade as a part of the county regiment, and, in regard to such parades, all existing laws shall fully apply to such volunteer companies.

SEC. 60. It shall be lawful for the volunteer companies in each brigadier general's command in this State to organize themselves into battalions and regiments, the officers whereof shall be elected by the commissioned officers* of the companies, at a time and places to be directed by the brigadier general, on application by the captains of a sufficient number of such companies to form a volunteer regiment; such election shall be held by each captain for his own company, who shall report the vote of his company to the brigadier general, and the latter shall certify the election to the governor.

*NOTE.—See Constitution under title "Militia" in sec. 2, provides that "field officers shall be elected by the officers and privates of their respective regiments."

SEC. 61. Each volunteer company shall parade and drill as often and on such days as shall be fixed by its by-laws, not being less than once every month; and may establish by by-laws such fines for non-attendance at drill, disobedience, unsoldier-like conduct, and the like, as it may think proper.

SEC. 62. Each of such companies may hold a court martial of its commissioned officers, or a majority of them, as often and at such times and places as by its by-laws may be established, and such court, or any member of it, shall have power to administer oaths in regard to all matters which may properly come before it; and may fine for contempt in a sum not more than ten dollars.

SEC. 63. In making up the records of any volunteer company, battalion or regimental court martial, it shall not be necessary to state more than that the person fined was absent at a certain named parade or drill, and offers no excuse, or no sufficient excuse for his absence, and is, therefore, fined the amount mentioned, which shall be, as to form, to all intents and purposes, a valid judgment; and it shall in all cases be presumed that the person so fined, was regularly a member of the company; that the parade or drill at which he was absent, was regularly ordered or fixed by the by-laws; that it was proven to said court, that he was duly notified to attend such parade or drill, and also that he received due notice to appear before said court and answer, and that the fine assessed is the proper amount fixed by the by-laws, with all other presumption in favor of the judgment of such courts as would apply in case of a court of superior jurisdiction.

SEC. 64. The captain of each volunteer company shall have power by written appointment to constitue one member of the company its collector, and may issue to such collector, whenever a fine has been assessed by the court martial, his warrant, in the name of the State, reciting the imposition of such fine, and commanding the collector to proceed by levy and make the same, and return the warrant within ten days from its date, and each such collector shall have in all respects the same power as to levy and sale under said warrant, as a constable has, by law, under executions from a justice of the peace; and

may sell any property levied, after ten days' notice, put up in one public place in the county, at which public place the sale shall be made. No delivery bond shall be allowed to be given on any such warrant, and levy may be made on any of the personal property of the defendant, except slaves.

SEC. 65. All fines assessed by the courts martial of companies shall, when collected, be paid into the company treasury, and appropriated as the company shall direct.

SEC. 66. Every person who shall hereafter serve during the space of five years from the passage of this act, or his future enlistment as a regular member of any volunteer company of this State, shall thereafter be exempt from militia service in time of peace; and the certificate of the captain of such company shall be sufficient evidence for all persons that he has so served in such company. *Act of Jan.* 9, 1845.

## FORM FOR COMPANY RETURNS. (*See Sections 7, 9 and 48, Chapter 113.*)

| Captain. | 1st Lieutenant. | 2d Lieutenant. | Sergeants. | Corporals. | Musicians. | Privates. | Total. |
|---|---|---|---|---|---|---|---|
| 1 | 1 | 1 | 3 | 4 | 2 | | |

## ARMS, ACCOUTREMENTS AND AMMUNITION.

| Muskets and Bayonets. | Catridge-Boxes, Plates and Belts. | Bayonet-Scabbards. | Cap-Pouches. | Wipers. | Ball-Screws. | Screw-Drivers. | Spring-Vices. |
|---|---|---|---|---|---|---|---|
| | | | | | | | |

## FORM FOR REGIMENTAL RETURNS. (*See Section* 12, *Chapter* 113.)

| Colonel. | Lieut. Colonel. | Major. | Adjutant. | Judge Advocate. | Reg. Qr. Master. | Reg. Surgeon. | Captains. | First Lieutenants. | Second Lieuten's. | Sergeant Major. | Qr. Mas. Serg'nts. | Drum Major. | Fife Major. | Musicians. | Privates. | Total. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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## ARMS, ACCOUTREMENTS AND AMMUNITION.

| | Muskets & Bayonets. | Catridge-Boxes, Plates and Belts. | Bayonet-Scabbards. | Cap-Pouches. | Gun-Slings. | Wipers. | Ball-Screws. | Screw-Drivers. | Spring-Vices. | | |
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## FORM FOR BRIGADE RETURN. (*See Section* 48, *Chapter* 113.)

| Brigadier General | Aid-de-Camps. | Brigade Major. | Judge Advocates. | Quartermasters. | Surgeons. | Adjutants. | Colonels. | Lieutenant Colonels. | Majors. | Captains. | 1st Lieutenants. | 2nd Lieutenants. | Regimental Quarter-masters. | Sergeant Majors. | Qr. Mas. Sergeants. | Chief Musicians. | Musicians. | Sergeants. | Corporals. | Privates. | Total. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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## ARMS, ACCOUTREMENTS AND AMMUNITION.

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FORM FOR DIVISION RETURN. [No. —.] (*See Section* 48, *Chapter* 113.)

| Major General. | Brigadier Generals. | Assistant Adjutant-Generals. | Aid-de-camps. | Brigade Majors. | Judge Advocates. | Quartermasters. | Surgeons. | Adjutants. | Colonels. | Lieutenant Colonels. | Majors. | Captains. | 1st Lieutenants. | 2nd Lieutenants. | Regimental Quarter-masters. | Sergeant Majors. | Quartermaster Ser-geants. | Chief Musicians. | Musicians. | Sergeants. | Corporals. | Privates. | Total. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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ARMS, ACCOUTREMENTS AND AMMUNITION.

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# EXTRACTS

FROM THE

# CONSTITUTION OF THE UNITED STATES

The Congress shall have power:

14. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.

15. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.—*Article* 1, *section* 8.

No State shall, without the consent of Congress, * * * keep troops, or ships of war, in time of peace, * * or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.—*Article* 1, *section* 10, *provision* 2.

The President shall be commander-in-chief of the army and navy of the United States, and of the malitia of the several States, when called into the actual service of the United States.—*Article* 2, *section* 2.

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.—*Article* 2 *of Amendments.*

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.—*Article 3, of Amendments of the Constitution of U. S.*

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentiment or indictment of a grand jury, except in cases arising in the land or naval forces, *or in the militia, when in actual service in time of war or public danger.—Article five of ammendments to the Constitution of the United States.*

# EXTRACTS

FROM

# GORDON'S DIGEST

OF THE

# LAWS OF THE UNITED STATES.

## CHAPTER V.

## OF THE MILITIA.

### SECTION 1.

### *Organization, Discipline, Pay.*


Citizens, what, to be enrolled—to provide arms, &c.—arms exempted from execution, &c.—notice for training 2396
Exempts from militia duty 2397
Militia to be arranged into divisions, &c., rank of—constitution of brigades, regiments, battalions, companies—how officered, &c. 2398
Colors and music to be provided 2399
Duty of brigade inspector 2340
Volunteer corps to be preserved 2341
Adjutant-general—his duties 2342
System of discipline and field exercise of regular army prescribed 2343
Rank of commissioned officers 2344
Pay of malitia called into service 2345


ART. 2396. Each and every free able bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years, (except as is hereinafter excepted,) shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall, at all times hereafter, be the duty of every such captain or commanding officer of a company, to enrol every such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, (except as before excepted,) shall come to reside within

his bounds; and shall, without delay, notify such citizen of the said enrollment, by a proper non-commissioned officer of the company, by whom such notice may be proved. Every citizen so enrolled and notified, shall, within six moths thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch, with a box therein, to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball: or with a good rifle, knapsack, shot pouch, and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear, so armed, accoutred, and provided, when called out to exercise, or into service; except, that when called out on company days to exercise only, he may appear without a knapsack. The commissioned officers shall, severally, be armed with a sword or hanger, and espontoon: and from and after five years from the passing of this act, all muskets for arming militia, as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunation, and accoutrements required as aforesaid, shall hold the same exempted from all suits, distresses, executions, or sales, for debt, or for payment of taxes.(1)

Every citizen duly enrolled in the malitia, shall be constantly provided with arms, accoutrements, and ammunition, agreeably to the direction of the preceding article, from and after he shall be duly notified of his enrollment; and any notice or warning to the citizens so enrolled, to attend a company, battalion, or regimental muster, or training, which shall be according to the laws of the state in which it is given for that purpose, shall be deemed a legal notice of his enrollment. (2)

2397. The Vice President of the United States; the officers, judicial and executive, of the government of the United States; the members of both houses of Congress, and their respective officers; all custom-house officers with their clerks; all post officers and stage drivers, who are employed in the care and conveyance of the mail of the post office of the United States; all ferrymen employed at any ferry on the post road; all inspec-

(1) Act 8th May, 1792, sec. 1.

(2) Act 2d March, 1803, sec. 2.

tors of exports; all pilots; all mariners actually employed in the sea service of any citizen or merchant within the United States; and all persons who now are, or may hereafter be, exempted by the laws of the respective States, shall be, and are hereby exempted from militia duty, notwithstanding their being above the age of eighteen, and under the age of forty-five years.(3)

2398. Within one year after the passing of this act, the militia of the respective states shall be arranged into divisions, brigades, regiments, battalions, and companies, as the legislature of each State shall direct; and each division, brigade, and regiment, shall be numbered at the formation thereof: and a record made of such numbers in the adjutant-general's office in the State; and when in the field, or in service in the State, each division, brigade, and regiment, shall, respectively, take rank according to their numbers, reckoning the first or lowest number highest in rank. If the same be convenient, each brigade shall consist of four regiments; each regiment of two battalions; each battalion of five companies; each company of sixty-four privates. The said militia shall be officered by the respective States, as follows: to each division, one major-general and two aids-de-camp, with the rank of major, one division inspector, with the rank of lieutenant-colonel, and one division quartermaster, with the rank of major; to each brigade, one brigadier-general, one aid-de-camp, with the rank of captain, one quarter master, with the rank of captain, with one brigade inspector, to serve also as brigade-major, with the rank of a major; to each regiment, one colonel, one lieutenant-colonel, and one major to each regiment consisting of two battalions; where there shall be only one battalion, it shall be commanded by a major; to each regiment, one chaplain; to each company, one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, and one fifer or bugler. There shall be a regimental staff, to consist of one adjutant and one quartermnster, to rank as lieutenants; one paymaster; one surgeon, and one surgon's mate; one sergeant-major; one drum-major, and one fife-major, to the militia of each state, one quartermaster-general.(1)

(3) Act 8th May, 1792, sec. 2.

(1) Act 8th May, 1792, sec. 3—Act 2d March, 1803, sec. 3—18th April, 1814—20th April, 1816.

Out of the militia enrolled, as is herein directed, there shall be formed, for each battalion, at least one company of grenadiers, light infantry, or riflemen, and that to each division, there shall be at least one company of artillery, and one troop of horse: there shall be to each company of artillery, one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer, and one fifer. The officers to be armed with a sword or hanger, a fusee, bayonet and belt, with a cartridge-box to contain twelve cartridges; and each private, or matross, shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be, to each troop of horse, one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, and one trumpeter. The commissioned officers to furnish themselves with good horses, of at least fourteen hands and a half high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with bearskin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and a half high, a good saddle, bridle, mail pillion, and valise, holsters, and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and a cartouch-box, to contain twelve cartridges for pistols. Each company of artillery and troop of horse shall be formed of volunteers from the brigade, at the discretion of the commander-in-chief of the State, not exceeding one company of each to a regiment, nor more in number than one-eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the color and fashion to be determined by the brigadier commanding the brigade to which they belong.(2)

2399. Each battalion and regiment shall be provided with the state and regimental colors, by the field officers, and each company with a drum and fife, or bugle horn, by the commissioned officers of the company, in such manner as the legislature of the respective states shall direct.(3)

2400. It shall be the duty of the brigade-inspector to attend the regimental and battalion meetings of the militia composing

(2) Act 8th May, 1792, sec. 4. (3) Act 8th May, 1792, sec. 5.

their several brigades, during the time of their being under arms, to inspect their arms, ammunition, and accoutrements; superintend their exercise and manœuvres, and introduce the system of military discipline throughout the brigade, agreeable to law, and such orders as they shall, from time to time, receive from the commander-in-chief of the state; to make returns to the adjutant-general of the state, at least once in every year, of the militia of the brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements, and ammunition of the several corps and every other thing which, in his judgment, may relate to their government and the general advancement of good order and military discipline.(4)

2401. And whereas sundry corps of artillery, cavalry, and infantry, now exist in several of the said states, which, by the laws, customs, or usages thereof, have not been incorporated with, or subject to, the general regulations of the militia.

Such corps shall retain their accustomed privileges, subject, nevertheless, to all other duties required by this act in like manner with the other militia.(1)

2402. There shall be an adjutant-general appointed in each state, whose duty it shall be to distribute all orders from the commander-in-chief of the state to the several corps; to attend all public reviews, when the commander-in-chief of the state shall review the militia, or any part therof; to obey all orders from him, relative to carrying into execution and perfecting the system of military discipline established by this act; to furnish blank forms of different returns, that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the state, returns of the militia under their command, reporting the actual situation of their arms, accoutrements, and ammuniton, their delinquencies, and every other thing which relates to the general advancement of good order and discipline: all which, the several officers of the divisions, brigades, regiments, and battalions, are hereby required to make, in the usual manner, so that the said adjutant-general may be duly furnished therewith: from all which returns, he shall make proper abstracts;

(4) Act 8th May, 1792, sec. 10.

(1) Act 8th May, 1792, sec. 11.

and lay the same annually before the commander-in-chief of the state, and he shall make to him a return of all the militia of the state (2)

He shall make return of the militia of the state to which he belongs, with their arms, accoutrements, and ammunition, agreeably to preceding article, to the president of the United States annually, on or before the first Monday in January: and the secretary of war shall, from time to time, give such directions to the adjutant-generals of the militia, as shall, in his opinion, be necessary to produce an uniformity in the said returns, and he shall lay an abstract of the same before congress, on or before the first Monday of February, annually.(3)

2403. The system of discipline and field exercise, which is, and shall be ordered to be observed by the regular army of the United States, in the different corps of infantry, artillery, and riflemen, shall also be observed by the militia, in the exercises and discipline of the said corps respectively, throughout the United States.(4)

2404. All commissioned officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, then their rank to be determined by lot, to be drawn by them, before the commanding officer of the brigade, regiment, battalion, company, or detachment.(5)

2405. The allowance of bounty, clothing, and pay, to the non-commissioned officers, musicians, and privates, of the infantry, artillery, and cavalry, of the militia of the United States, when called into actual service, shall be at the rate per month as follows: each sergeant-major and quartermaster-sergeant, nine dollars; each drum and fife-major, eight dollars and thirty-three cents; each seargeant, eight dollars; each corporal, drummer, fifer, and trumpeter, seven dollars and thirty-three cents; each farrier, saddler, and artificer, (included as a private,) eight dollars; each gunner, bombardier, and private, six dollars and sixty-six cents.(6)

In addition to the monthly pay, there shall be allowed to each officer, non-commisioned officer, musician, and private of

(2) Act 8th May, 1792, sec. 6, 10.
(3) Act 2d March, 1803, sec. 1.
(4) Act 12th May, 1820, sec. 1.
(5) Act 8th May, 1792, sec. 8.
(6) Act 2d Jan., 1795, sec. 1.

the cavalry, for the use of his horse, arms, and accoutrements, and for the risk thereof, except of horses killed in action, forty cents per day; and to each non-commissioned officer, musician, and private, twenty-five cents per day, in lieu of rations and forage, when they shall provide the same.(1)

Whenever the militia shall be called into the actual service of the United States, their pay shall be deemed to commence from the day of their appearing at the places of battalion, regimental, or brigade rendezvous; allowing to each non-commissioned officer, musician, and private soldier, a day's pay and rations for every fifteen miles from his home to such place of rendezvous, and the same allowance for traveling home from the place of discharge.(2)

SECTION II.

*Of the Government of the Militia.*


| | | | |
|---|---|---|---|
| Militia in service subject to rules and articles of war | 2406 | Courts martial to be composed of militia officers | 2408 |
| Penalty for disobeying orders of President under act of 1795 | 2407 | Fines—how collected | 2409 |
| | | Fines to be paid to comptroller of treasury | 2410 |


ART. 2406. The militia employed in the service of the United States, shall be subject to the same rules and articles of war, as the troops of the United States.(3)

2407. Every officer, non-commissioned officer, or private of the militia, who shall fail to obey the orders of the president of the United States, in any of the cases recited in act 28th Feb. 1795, shall forfeit a sum not exceeding one year's pay, and not less than one month's pay, to be determined and adjudged by a court martial, and such officer shall, moreover, be liable to be cashiered by sentence of a court martial, and be incapacitated from holding a commission in the militia, for a term not exceeding twelve months, at the discretion of the said court: and such non-commissioned officers and privates shall be liable to be imprisoned, by a like sentence, on failure of payment of the fines adjudged against them, for one callender month, for every five dollars of such fine.(4)

(1) Act 2d Jan., 1795, sec. 2.
(2) Ibid. sec. 3.
(3) Act 28th Feb., 1795, sec. 2.
(4) Ibid. sec. 5.

2408. Courts martial for the trial of militia shall be composed of militia officers only.(5)

2409. All fines to be assessed as aforesaid, shall be certified by the presiding officer of the court martial before whom the same shall be assessed, to the marshal of the district in which the delinquent shall reside, or to one of his deputies, and also to the comptroller of the treasury, who shall record the said certificate in a book to be kept for that purpose. The said marshal, or his deputy, shall forthwith proceed to levy the said fines, with costs, by distress and sale of the goods and chattels of the delinquent; which costs, and the manner of proceeding, with respect to the sale of the goods distrained, shall be agreeable to the laws of the state in which the same shall be, in other cases of distress. And where any non-commissioned officer or private shall be adjudged to suffer imprisonment, there being no goods or chattels to be found whereof to levy the said fines, the marshal of the district, or his deputy, may commit such delinquent to gaol, during the term for which he shall be so adjudged to imprisonment, or until the fine shall be paid, in the same manner as other persons condemned to fine and imprisonment at the suit of the United States may be committed.(6)

2410. The marshals and their deputies shall pay all such fines by them levied, to the comptroller of the treasury within two months after they shall have received the same, deducting therefrom five per centum as a compensation for their trouble; and in case of failure, the same shall be recoverable by action of debt or information, in any court of the United States, of the district in which such fines shall be levied, having cognizance thereof, to be sued for, prosecuted, and recovered, in the name of the supervisor of the district, with interests and costs.(1)

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(5) Act 28th Feb., 1795, sec. 6.
(6) Ibid. sec. 7—Act 2d Feb., 1813.
(1) Act 28th Feb., 1795, sec. 8—Act 2d Feb., 1813.

SECTION III.

*Of the service of the Militia to suppress insurrections and repel invasions.*

Term of service 2411
President may call forth militia, army and navy, in case of invasion or insurrection 2412
In case of use of military force, President to command insurgents to disperse 2413
Expenses of marching militia to rendezvous, how paid 2414
Provision for militia wounded in service 2415

ART. 2411. No officer, non-commissioned officer, or private of the militia, shall be compelled to serve more than three months after his arrival at the place of rendezvous in any one year, nor more than in due rotation with every other able bodied man of the same rank in the battalion to which he belongs.(2)

2412. Whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the president of the United States to call forth such number of the militia of the state or states most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose, to such officer or officers of the malitia as he shall think proper. And in case of an insurrection in any state, against the government thereof, it shall be lawful fort the president of the United States, on application of the legislature of such state, or of the executive, (when the legislature cannot be convened,) to call forth such number of the militia of any other state or states, as may be applied for, as he may judge sufficient to suppress such insurrection (3)

Whenever the laws of the United States shall be opposed, or the execution thereof obstructed in any state, by combinations too powerful to be suppressed by the ordinary course of judicial preceedings, or by the powers vested in the marshals by this act, it shall be lawful for the president of the United States to call forth the militia of such state; or of any other state or states, as may be necessary to suppress such combinations, and to cause the laws to be duly executed; and the use of militia so to be called forth may be continued, if necessary, until the expiration

(1) Act 28th Feb., 1795, sec. 4. (3) Ibid. sec. 1.

of thirty days after the commencement of the then next session of congress.(4)

In all cases of insurrection, or obstruction to the laws, either of the United States, or of any individual state or territory, where it is lawful for the president of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly exected, it shall be lawful for him to employ, for the same purposes, such part of the land or naval forces of the United States, as shall be judged necessary, having first observed all the prequisites of the law in that respect.(1)

2413. Whenever it may be necessary, in the judgment of the president, to use the military force hereby directed to be called forth, the president shall forthwith, by proclamation, command such insurgents to disperse, and retire peacebly to their respective abodes, within a limited time.(2)

2414. The expenses incurred, or to be incurred by marching the militia of any state or territory of the United States to their places of rendezvous, in pursuance of a requisition of the president of the United States, or which shall have been, or may be incurred in cases of calls made by the authority of any State or territory, which shall have been or may be approved by him, shall be adjusted, and paid in like manner as the expenses incurred after their arrival at such place of rendezous, on the requisition of the president of the United State: *Provided*, That nothing herein contained shall be considered as authorizing any species of expenditure, previous to arriving at the place of rendezvous, which is not provided by existing laws to be paid for after their arrival at such place of rendezvous.(3)

2415. If any person, whether officer or soldier, belonging to the militia of any State, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of and provided for at the public expense.(4)

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(4) Act 28th Feb., 1795, sec. 2.
(1) Act 3d March, 1807.
(2) Act 28th Feb., 1795, sec. 3.
(3) Act 20th April, 1818, sec. 1.
(4) Act 8th May, 1792, sec. 9.

# EXTRACT

FROM

# THE ARMY REGULATIONS

OF

# THE UNITED STATES.

## ARTICLE XLIX.

### ARMS OF THE UNITED STATES.

1367. *Arms*—Paleways of thirteen pieces, argent and gules; a chief, azure; the escutcheon on the breast of the American eagle displayed, proper, holding in his dexter talon an olive-branch, and in his sinister a bundle of thirteen arrows, all proper; and in his beak a scroll, inscribed with this motto: "E PLURIBUS UNUM."

For the *crest:* over the head of the eagle, which appears above the escutcheon, a glory breaking through a cloud, proper, and surrounding thirteen stars, forming a constellation, argent, and on an azure field.

## ARTICLE L.

### FLAGS, COLORS, STANDARDS, GUIDONS.

### Garrison Flag.

1368. The garrison flag is the national flag. It is made of bunting, thirty-six feet fly, and twenty feet hoist, in thirteen horizontal stripes of equal breadth, alternately red and white, beginning with the red. In the upper quarter, next the staff, is the Union, composed of a number of white stars, equal to the number of states, on a blue field, one-third the length of the flag, extending to the lower edge of the fourth red stripe from the top. The storm flag is twenty feet by ten feet; the recruiting flag, nine feet, nine inches by four feet four inches.

### Colors of Artillery Regiments.

1369. Each regiment of artillery shall have two silken colors. The first, or the national color, of stars and stripes, as described for the garrison flag. The number and name of the regiment to be embroidered with gold on the center stripe. The second or regimental color to be yellow, of the same dimensions as the first, bearing in the center two cannon crossing, with the letters U. S. above, and the number of the regiment below; fringe, yellow. Each color to be six feet, six inches fly, and six feet deep on the pike. The pike, including the spear and ferule, to be nine feet, ten inches in length. Cords and tassels, red and yellow silk intermixed.

### Colors of Infantry Regiments.

1370. Each regiment of infantry shall have two silken colors. The first, or the national color, of stars and stripes, as described for the garrison flag; the number and name of the regiment to be embroidered with silver on the center stripe. The second, or regimental color, to be blue, with the arms of the United States embroidered in silk on the center. The name of the regiment in a scroll, underneath the eagle. The size of each color to be six feet, six inches fly, and six feet deep on the pike.

The length of the pike, including the spear and ferule, to be nine feet ten inches. The fringe, yellow; cords and tassels, blue and white silk intermixed.

## Camp Colors.

1371. The camp colors are of bunting, eighteen inches square; white for infantry, and red for artillery; with the number of the regiment on them. The pole eight feet long.

## Standards and Guidons of Mounted Regiments.

1372. Each regiment will have a silken standard, and each company a silken guidon. The standard to bear the arms of the United States, embroidered in silk, on a blue ground, with the number and name of the regiment; in a scroll underneath the eagle. The flag of the standard to be two feet, five inches wide, and two feet, three inches on the lance, and to be edged with yellow silk fringe.

1373. The flag of the guidon is swallow-tailed, three feet, five inches from the lance to the end of the swallow-tail; fifteen inches to the fork of the swallow-tail, and two feet, three inches on the lance. To be half red and half white, dividing at the fork, the red above. On the red, the letters U. S. in white; and on the white, the letter of the company in red. The lance of the standards and guidons to be nine feet long, including spear and ferule.

# ADDITIONAL EXTRACTS

FROM

# THE ARMY REGULATIONS

OF THE

# UNITED STATES.

THE FOLLOWING EXTRACTS ARE FROM ARTICLE TWENTY-NINE:

SECTION 244. Courtesy among military men is indispensable to discipline. Respect to superiors will not be confined to obedience on duty, but will be extended to all occasions. It is always the duty of the inferior to accost or to offer first the customary salutation, and of the superior to return such complimentary notice.

SEC. 245. Sergeants, with swords drawn, will salute by bringing them to a present—with muskets, by bringing the left hand across the body, so as to strike the musket near the right shoulder. Corporals out of the ranks, and privates not sentries, will carry their muskets at a shoulder as sergeants, and salute in like manner.

SEC. 246. When a soldier, without arms, or with side-arms only, meets an officer, he is to raise his hand to the right side of the visor of his cap, palm to the front, elbow raised as high as the shoulder, looking at the same time in a respectful and soldier-like manner at the officer, who will return the compliment thus offered.

SEC. 247. A non-commissioned officer or soldier being seated, and without particular occupation, will rise on the approach of an officer, and make the customary salutation. If standing he will turn toward the officer for the same purpose. If the parties remain in the same place or on the same ground, such compliments need not be repeated.

The following articles are from the Act of Congress, approved April 10, 1806:

ARTICLE 6. Any officer or soldier, who shall behave himself with contempt or disrespect toward his commanding officer, shall be punished according to the nature of his offence, by the judgment of the court-martial.

9. Any officer or soldier who shall strike his superior officer, or draw or lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretense whatever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offence, be inflicted upon him by the sentence of a court-martial.

24. No officer or soldier shall use any reproachful or provoking speeches or gestures to another, upon pain, if an officer, of being put in arrest; if a soldier, confined, and of asking pardon of the party offended, in the presence of his commanding officer.

27. All officers, of what condition soever, have power to part and quell all quarrels, frays and disorders, though the persons concerned should belong to another regiment, troop or company; and either to order officers into arrest, or non-commissioned officers or soldiers into confinement, until the proper superior officers shall be acquainted therewith; and whosoever shall refuse to obey such officer (though of an inferior rank,) or shall draw his sword upon him, shall be punished at the discretion of a general court-martial.

44. No officer, non-commissioned officer, or soldier shall fail in repairing, at the time fixed, to the place of parade, of exercise, or rendezvous appointed by his commanding officer, if not prevented by sickness or some other evident necessity, or shall go from the said place of rendezvous without leave from his

commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished, according to the nature of his offence, by the sentence of a court-martial.

45. Any commissioned officer who shall be found drunk on his guard, party, or other duty, shall be cashiered. Any non-commissioned officer or soldier, so offending, shall suffer such corporeal punishment as shall be inflicted by the sentence of a court-martial.

46. Any sentinel who shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer death, or such other punishment, as shall be inflicted by the sentence of a court-martial.

# MILITIA.

*Register, showing the Divisions, Brigades and Regiments of the Militia of the State of Arkansas, and the names of the officers commanding them.*

The constitution provides that the Governor of the State of Arkansas shall be commander-in-chief of the army of this State and of the militia thereof, except when they shall be called into the service of the United States.

There are two divisions of the militia of the State of Arkansas, and each is commanded by one major general.

There are eight brigades of the militia in this State, numbered from one to eight, inclusive. Each brigade is commanded by one brigadier general. It is the duty of the major general of each division to have all vacancies in the office of brigadier general in his division filled.

There are sixty-two regiments, numbered from one to sixty-two, inclusive, and each regiment is commanded by a colonel commandant.

It is the duty of each brigadier general to have all vacancies in the office of colonel commandant in his brigade filled.

It is the duty of the colonels, at all times, to keep the different vacancies of all officers in their regiments filled.

# First Division.

Major General Thomas D. Merrick, of Little Rock, Arkansas, commands the first division. This division is subdivided into four brigades. Brigadier General Benjamin P. Jett, of Washington, Hempstead county, Arkansas, commands the first brigade, which embraces all of the militiamen in the following named counties:

| Counties. | No. of Regiment. | Name of Colonel Commandant. |
|---|---|---|
| Sevier | 37 | Col. Charles L. Dawson. |
| Hempstead | 8 | " Daniel Griffin. |
| Lafayette | 40 | " John H. Hamiter. |
| Pike | 38 | " James W. M. Murphy. |
| Clark | 28 | " William M. Bruce. |
| Ouachita | 39 | " Joab B. Brooks. |
| Hot Spring | 47 | " Robert S. Clayton. |
| Montgomery | 57 | " Nathaniel Grant. |
| Polk | 49 | " A. S. Alexander. |
| Columbia | 56 | " James P. Austin. |

Brigadier General George M. Holt, of Benton, Saline county, Arkansas, commands the second brigade, which embraces all of the Militiamen in the following named counties:

| Counties. | No. of Regiment. | Name of Colonel Commandant. |
|---|---|---|
| Pope | 15 | Col. John L. Williamson. |
| Yell | 26 | " William H. Dawson. |
| Conway | 4 | " William Turner. |
| Perry | 36 | " John Baskins. |
| White | 21 | " John Critz, |
| Prairie | 50 | " E. E. Dismukes. |
| Pulaski | 13 | " Craven Peyton. |
| Saline | 18 | " Moses T. Watters. |

Brigadier General Napoleon B. Burrow, of Van Buren, Crawford county, Arkansas, commands the third brigade, which embraces all of the militiamen in the following named counties.

| Counties. | No. of Regiment. | Name of Colonel Commandant. |
|---|---|---|
| Crawford ..... | 5 | Col. John T. Humphreys. |
| Franklin ..... | 7 | " Albert L. Berry. |
| same ..... | 58 | " John M. Council. |
| Scott ..... | 17 | " James F. Lee. |
| Johnson ..... | 10 | " John W. May. |
| same ..... | 62 | " William Whitaker. |
| Sebastian ..... | 51 | " Samuel L. Griffith. |

Brigadier General William T. Neal, of Boonsboro, Washington county, Arkansas, commands the fourth brigade, which embraces all of the militiamen in the following named counties:

| Counties. | No. of Regiment. | Name of Colonel Commandant. |
|---|---|---|
| Washington ... | 20 | Col. Henry Reiff. |
| same ..... | 32 | " George W. Hughes. |
| Benton ..... | 2 | " N. B. Pearce. |
| Madison ..... | 11 | " Benjamin Vaughan. |
| same ..... | 44 | " |
| Carroll ..... | 3 | " Henry Helton. |

## Second Division.

Major General James Yell, of Pine Bluff, Jefferson county, Arkansas, commands the second division. This division is subdivided into four brigades, commencing with brigade number five. Brigadier General (office vacant) of commands the fifth brigade, which embraces all of the militiamen in the following named counties:

| Counties. | No. of Regiment. | Name of Colonel Commandant. |
|---|---|---|
| Mississippi | 48 | Col. Joseph B. Boram. |
| Crittenden | 30 | " Reuben T. Redman. |
| Poinsett | 14 | " Robert H. Baird. |
| St. Francis | 19 | " Marsh Walker. |
| Phillips | 12 | " William H. Robards. |
| Monroe | 35 | " Caleb W. Richardson. |
| Craighead | 55 | " Adam D. Grayson. |

Brigadeer General Thomas S. James, of Pine Bluff, Jefferson county, Arkansas, commands the sixth brigade, which embraces all of the militiamen in the following named counties.

| Counties. | No. of Regiment. | Name of Colonel Commandant. |
|---|---|---|
| Arkansas | 1 | Col. |
| Union | 29 | " William R. Cowser. |
| Chicot | 23 | " Batt Jones. |
| Desha | 6 | " William W. Johnson. |
| Jefferson | 24 | " Donaldson McGregor. |
| Ashley | 53 | " William P. Macklin. |
| Calhoun | 54 | " P. H. Echols. |
| Dallas | 46 | " H. H Elliott. |
| Drew | 52 | " Lawrence H. Belser. |
| Bradley | 27 | " |

Brigadeer General (*office vacant.*) of commands the seventh brigade, which embraces all of the militiamen in the following named counties:

| Counties. | No. of Regiment. | Name of Colonel Commandant. |
|---|---|---|
| Van Buren.... | 22 | Col. Jerome B. Lewis. |
| Izard ..... | 42 | " John J. Kemp. |
| Fulton ..... | 43 | " Thomas Srable. |
| Marion ..... | 31 | " James R. Dowd. |
| Searcy ..... | 45 | " Elbridge G. Mitchell. |
| Newton..... | 41 | " Pleasant Fowler. |

Brigadier General (*office vacant.*) of commands the eighth brigade, which embraces all of the militiamen, in the following named counties.

| Counties. | No of Regiment. | Name of Colonel Commandant. |
|---|---|---|
| Randolph ..... | 16 | Col. James T. Martin. |
| Green ..... | 33 | " R. C. Mock. |
| Lawrence .... | 25 | " James H. McCalob. |
| same .... | 60 | " R. G. Shaver. |
| same .... | 61 | " J. C. Holmes. |
| Independence | 9 | " |
| same .... | 59 | " Sterling W. Allen. |
| Jackson ..... | 34 | " Christopher W. Board. |

ADJUTANT GENERAL'S OFFICE,
*Little Rock, Ark.*,
27th August, 1860.

The militia officers of the State of Arkansas, will take notice that the forms for returns, printed with the militia laws, were prepared by the adjutant general of the state, submitted to, approved and adopted by the commander-in-chief.

Therefore, all officers, in making returns are required to be governed by the prescribed forms as far as practicable.

The commander-in-chief expects that in all returns to be made by the major generals to this office, in accordance with law, the prescribed forms will be strictly complied with, so as to enable the adjutant general to make his annual report of the strength of the militia of the state, to the adjutant general of the United States.

JOHN HUTT,
*Adjutant General,*
*of the State of Arkansas.*

☞ *If officers would read to the militiamen under their command the following communication, it might, perhaps, have a tendency to promote the public good.*

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EXECUTIVE OFFICE,
*Little Rock, Ark.*,
27th August, 1860.

TO THE MILITIAMEN OF THE
STATE OF ARKANSAS:

I have caused to be published, the foregoing laws of this state and of the United States, on the subject of the militia, for your information, observance and government.

The constitution of our state declares that "the military shall be kept in strict subordination to the civil power." The constitution of the United States declares that a well regulated militia is *necessary to the security* of a free state.

I appeal to you to remember that it is the duty of every good citizen to yield to his country such services as the laws require of him. You cannot perform those important duties entrusted to you as citizen-soldiers without being thoroughly organized, trained and deciplined. You must be "*a well regulated militia*," to be such security to the state as the constitution declares to be necessary.

Militia officers of the State of Arkansas: I point you to the laws regulating your duties, and appeal to you to be *prompt, zealous and efficient* in their performance. Let me remind you that those who continue to hold such offices are legally and morally bound to perform, as far as possible, the duties enjoined by law. This is no time to be indifferent on the subject of or-

ganizing the militia of our state. We do not know how soon the strong arm of the military may be needed. Then, if we have any state pride, let us be prepared with a well regulated militia. I enjoin it upon each major general to have all vacancies, if any exist in his division, in the office of brigadier general, filled as early as practicable, and to cause a thorough organization of the militia in every brigade in his division, and to have the returns made as required by law.

The laws of this state and of the United States, require each militiaman to furnish his own arms and equipments. The state has only one hundred and thirteen muskets and carbines on deposit, at the U. S. arsenal, at Little Rock.

The State of Arkansas is entitled to receive from the United States, fourteen hundred and ninety-four muskets, at an assumed value of thirteen dollars for each musket, or if rifle muskets be required, with accoutrements, the state is entitled to but 1,069. If arms of a more expensive character be required, the number of them would be reduced in proportion to their cost. There is no law of this state authorizing the governor to furnish volunteer or other companies of militia with arms. In my message of November, 1854, I recommended legislation on this subject, but the General Assembly has not yet passed any law giving such authority to the governor. But the whole amount of arms due from the United States to the state would not be sufficient to arm all the militiamen in more than one of our large counties. The 1,494 muskets now due from the United States to this state, constitute the aggregate of all the arms apportioned to the state, under the acts of congress, during nine years, including the year 1860. The number of muskets apportioned to the State of Arkansas for the year 1860, was only 169. It is therefore manifest that the militia of our state can not, under existing laws, be fully armed by the state, nor by the United States, unless the militia should be called into actual service of the United States. The expense of arming all the militia would be so great that the laws of the United States and of this state require every militiaman to provide for himself such arms and equipments as the law prescribes. All the volunteer companies authorized by law in every county

in the state ought to be speedily and thoroughly organized and disciplined, and armed and equipped in the best manner as soon as possible. If neither the state nor the United States can furnish the necessary arms for the volunteer companies there is one mode by which the people of each county could procure them and have them always under the control of the proper authorities of the county in a county arsenal, except when in use by the volunteer companies. A law could be passed by our General Assembly to authorize the people of each and every county to tax themselves, if they choose to do so, by levying a tax on all taxable property in the county, to raise the money to buy arms and equipments sufficient to arm all the volunteer companies in the county. The law provides that "there may be organized in each county in the state, four volunteer companies, one of infantry, one of light infantry or riflemen, one of cavalry, and one of artillery," "who shall be wholly independent of the militia of the county, except at battalion and regimental parades."

Were the whole of the volunteer companies authorized by law organized and armed as they should be, each composed of the full complement of men, they would amount in the aggregate to twenty-two thousand volunteers, armed and equipped, and at all times ready for service, in addition to our regular militia, of which we now have sixty-two regiments, and others will soon be organized.

Section fifty-seven of chapter 113, provides that volunteer companies "shall elect their officers at the first election at a time and place *to be ordered by the colonel* of the regiment, upon whose certificate of election commissions shall issue."

The law of the United States provides that "out of the militia enrolled, there shall be formed *for each battalion*, at least one company of grenadiers, light infantry, or riflemen, and that to each division there shall be at least one company of artillery, and one troop of horse." These volunteer companies do not compose any part of the regiments of the regular militia.

Our militia law provides that no company shall consist of less than thirty-two, nor more than one hundred non-commis-

sioned officers and privates—in addition each company has one captain, one first lieutenant and one second lieutenant.

A battalion cannot consist of *less than two* nor more than *four* companies.

No regiment shall consist of more than eight *nor less than four* companies. The companies in a regiment are designated by letters, beginning with "A."

Volunteer companies are designated by the proper terms indicating the character of troops which they are intended to be. Each volunteer company is entitled to *three* lieutenants, but a company in a regiment of the regular militia is entitled to but *two* lieutenants.

It devolves upon each colonel commandant, not only to organize his regiment, but also to have formed within the bounds of his regiment, as many volunteer companies, independent of his regiment, as the law requires, and the number of militiamen will justify. If there should be more militiamen in the bounds of any regiment than necessary for a regiment of eight companies, containing one hundred non-commissioned officers and privates, and if, after forming, out of the excess of the militiamen, all the volunteer companies required by law, there should still be a surplus, the colonel would have to apply to the brigadier general of the brigade to divide the regiment and make a new regiment out of part of it.

The law in section 20 of chapter 113, prescribes that "*It shall be the duty of the colonels, at all times, to keep the different vacancies of all officers in their regiments filled.*"

If each colonel will promptly comply with the important and solemn duty so positively and pointedly enjoined upon him by this provision of law, which he *is in honor, in conscience and law* bound to obey as long as he holds the office of colonel commandant of a regiment, the militia of our state will be organized, and will be kept *continually* organized.

Let every officer remember that the chief honor derived from holding an office, is that which an honest and intelligent community will ever accord to an officer who promptly, faithfully and efficiently performs his duties. To know what these duties are, it is necessary, not only to read, *but to study and under-*

*stand the laws and regulations* prescribing them. Then an officer will be prepared to act, and if he have pride and energy of character, will promptly and efficiently discharge the public trust reposed in him.

I have prepared and had published with the militia laws, a register of the divisions, brigades and regiments of the militia, and the names of the major generals, brigadier generals, and colonels, who command them. If these officers will go to work in earnest and discharge every duty required of them by law, they will acquire credit and honor for their patriotic services, and will cause the militia to be such security to the state as the constitution declares to be necessary.

The patriotic ladies of our state might greatly encourage the militia by preparing and presenting suitable flags to them when organized.

It is time to prepare for trouble and danger, which will certainly be brought upon our state if our citizens remain heedless and indifferent to the security of themselves, their families and their property. The dangers which threaten the peace and quiet of the people of Arkansas, are of such a character that every good citizen, it is hoped, will be willing, not only to encourage the organization of the militia, but to use his influence in favor of raising money in the manner which I have suggested, to buy arms to arm and equip the volunteer companies in his county. Let the people take hold of this matter and petition the General Assembly of the State of Arkansas to pass such a law as I have suggested, so that every county may be enabled to have its volunteer companies of militia well armed and equipped, so that they would afford protection and security to the people of the county, in their persons and property. Will not the people act and aid in providing for their own security? Will no warning be sufficient to arouse them until English enemies of our government shall have their secret and diabolical agents and emissaries stationed in every town and neighborhood, in every county in our state, and their arrangements fully perfected, and all things ready at the appointed time, to begin their assigned and systematic work of wholesale arson and plunder, insurrection and murder? It is my opinion

that *the settled and secret policy of the British government is to disturb the domestic tranquility of the United States. That its object is to break up and destroy our government, get rid of a powerful rival, extend the area of the British dominions on this continent and become the chief and controling power in America.*

It is my opinion *that the abolition statesman was fully aware that the British government intended, unceasingly, to pursue this policy* of disturbing the domestic tranquility of the United States, when he announced that there was an "*irrepressible conflict*" between the free states and the slave states. It is my opinion that millions of dollars of British gold have been and will be used, in various ways, in the northern and southern states to stir up and intensify this "irrepressible conflict" between the free states and the slave states. That the policy of the British government has been *for many years and is now*, so to conduct its *unceasing efforts* to overthrow our government, (by employing abolitionists as its secret agents and emissaries,) that the mischiefs and outrages perpetrated upon the slave states will seem to have been *originated, planned* and perpetrated by abolition citizens of the free states. It is my opinion that the British government is the *real author and instigator* of the mischiefs and outrages perpetrated against the slave states, and that *it is the duty of our federal government, and of the patriotic people of the United States to hold the British government responsible for disturbing the domestic tranquility of the United States.* It is my opinion that the British government has determined that, as long as our government shall exist, there shall henceforth be no domestic tranquility in the Union. It is my opinion that British gold has been and will be used to hire unprincipled abolitionists from the free states, and send them into the slave states instructed to commit such outrages that the people of the south will become so hostile to those of the north, and the aggressions and outrages committed upon the southern states by *those hired abolition British emissaries*, from the free states, will be *so often and aggravated* that civil war will be produced, the Union dissolved, and anarchy, with all its desolating evils and deeds of plunder, robbery, outrages, crimes and murder prevail.

I believe that such a conspiracy exists against our federal government, and that, if all the secret facts and transactions connected with it, and the names of the secret agents and emissaries of the British government, distributed thoughout the United States, could be ascertained, well authenticated and made public, the patriotic people of the United States would be filled with astonishment; and that having discovered the *real author and instigator* of the mischief, all discord between the free states and slave states would at once be allayed, if not entirely cease, and that then they would become fraternally and more firmly united; and that the united indignation of the patriotic citizens of the whole Union against the British government and its agents and emissaries, would be so great that war would be declared against the British government in less than twelve months.

Entertaining these opinions, I deem it my duty to the people of the State of Arkansas, to warn them to go to work *in earnest* and make *permanent and thorough preparations*, so that they may at all times be ready to protect themselves and our state against evils which I believe the British government intends *shall not be temporary and trifling but continuous and aggravated*, "*irrepressible*" *and terrible*.

Every county in the State of Arkansas should have a substantial and secure county arsenal, well supplied with arms; and organized and well disciplined volunteer companies should be ready at all times to use them.

Let these important matters not be lightly treated, but calmly and seriously considered.

We must look as far as possible into the future, and prepare to guard against evils which are certainly approaching.

Then as wise men, as prudent men, as citizen-soldiers and patriots, I appeal to the militiamen of the State of Arkansas, to organize and thoroughly prepare for any emergency which shall call for their strong arms in defence of our rights and our country.

ELIAS N. CONWAY, *Governor,*
*of the State of Arkansas, and commander-in-chief*
*of the army of said state, and of the militia thereof.*

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